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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,264	07/31/2003	Luis Rivera	TSR001/141985	5480
23444	7590	03/02/2006	EXAMINER	
ANDREWS & KURTH, L.L.P. 600 TRAVIS, SUITE 4200 HOUSTON, TX 77002			STRIMBU, GREGORY J	
		ART UNIT	PAPER NUMBER	
		3634		
DATE MAILED: 03/02/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/632,264	RIVERA, LUIS	
	Examiner	Art Unit	
	Gregory J. Strimbu	3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 27 December 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 23-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 23-32 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 27 December 2005 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

Drawings

The drawings are objected to because the resilient strip 82 is not shown with the proper cross sectional shading in accordance with MPEP 608.02. Note that figure 1 shows the resilient strip with a metal cross sectional shading while the specification states the strip is made of a soft rubber like material. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The abstract of the disclosure is objected to because “window guide tracks” on line 6 is confusing since it is unclear if the applicant is referring to the window guide tracks set forth above or is attempting to set forth window guide tracks in addition to the ones set forth above. On line 11, “contact the guide track strip” is confusing since it appears that the resilient strip protects against contact with the lower window strip. Correction is required. See MPEP § 608.01(b).

Claim Objections

Claim 32 is objected to because it fails to end with a period. Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claims 23-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as “a third direction” on line 17 of claim 23 render the claims indefinite because it is unclear how the third direction can differ from the second direction. In other words, it appears that the third and second directions have to be the same direction the way the claims are currently drafted. Recitations such as “said second structural panel” on line 18 of claim 23 render the claims indefinite because it is unclear if the applicant is referring to the upper or lower structural panels. Recitations

such as "capture and support said first and second window panes" on lines 23-24 of claim 23 render the claims indefinite because it is unclear if the applicant is claiming the subcombination of a window track assembly or the combination of a window track assembly and window panes. The preamble of claim 23 implies the former while the positive recitation of the window panes on lines 23-24 of claim 23 implies the latter.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 23, 25-27, 29 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Gates. Gates discloses a window track assembly for attachment of first 2a and second 2b window panes to an upper structural panel 9a, 9b and to a lower structural panel 9a, 9b, said upper structural panel and said lower structural panel generally lying in a common vertical plane, said upper structural panel having a lower edge, said lower structural panel having an upper edge, said lower edge and said upper edge defining a window opening therebetween, the window track assembly comprising a first window track strip 1, 10 including a first side wall (not numbered, but comprising the right most side wall of 10 as shown in figure 3), a second side wall (not numbered, but shown in figure 3 as the left most side wall of 10) and a transverse wall (not numbered, but comprising the generally horizontal portion connecting the first and

second side walls) connected therebetween which define an edge receiving receptacle having an opening facing a first direction and adapted for receiving said lower edge of said upper structural panel; a first guide track structure 1 extending transversely from said second side wall of said edge receiving receptacle of said first window track strip and defining first 6 and second 6 window slide track receptacles having openings facing a second direction opposite to said first direction; a second window track strip (not numbered, but shown in figure 1 at the upper horizontal portion of the window track assembly) including a first side wall (not numbered, but comprising the right most side wall of 10 as shown in figure 3), a second side wall (not numbered, but shown in figure 3 as the left most side wall of 10) and a transverse wall (not numbered, but comprising the generally horizontal portion connecting the first and second side walls) connected therebetween which define an edge receiving receptacle having an opening facing a third direction and adapted for receiving said upper edge of said second structural panel 9a, 9b; and a second guide track structure 1 extending transversely from said second side wall of said edge receiving receptacle of said second window track strip and defining first and second window slide track receptacles 6 having openings facing a fourth direction opposite said third direction, whereby said first and second window track strips cooperate to capture and support said first and second window panes 2a, 2b for sliding movement between said first and second guide track structures, a resilient member (not numbered, but comprising one of the arms extending into the channel 6), a channel (not numbered, but the comprising the channel formed by the element 1 of the window track strip) which captures the resilient member, the first and second guide

track structures 1 include parallel first and second guide walls (not numbered, but shown in figure 3 as the left most vertical wall of the track structure 1 and the middle vertical wall of the track structure 1), support walls (not numbered, but shown in figure 3 as the horizontal wall connecting the middle wall to the second side walls of the window track strips).

It should be noted that the second window track strip comprises the mirror image of figure 3 and is disposed on the top horizontal portion of the window opening as shown in figure 1.

Claim Rejections - 35 USC § 102

Claims 31 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Melcher. Melcher discloses a window track assembly for attachment to upper and lower structural panels (not shown), said upper structural panel and said lower structural panel generally lying in a common vertical plane and defining a window opening, comprising: an upper window track strip 71 (it should be noted that the upper and lower track strips comprise the same structure, the only difference being the lower track strip "faces" downwardly while the upper track strip "faces upwardly"; accordingly the upper and lower track strips are "mirror images" of each other) defining an upward facing edge receiving receptacle (not numbered, but shown in figure 13 as the channel of 71 facing downwardly) receiving a lower edge of the upper structural panel member; an upper guide track structure 60 extending transversely from said upper window track strip and defining a downward facing window slide track receptacle (not numbered, but shown as

the upwardly facing channel defined by the guide track structure 60); a lower window track strip 71 defining a downward facing edge receiving receptacle (not numbered, but shown in figure 13 as the downwardly facing channel of the track strip 71) receiving an upper edge of said lower structural panel; a resilient member comprising the right most wall 15 as shown in figure 13 coupled to said lower window track strip 71; a lower guide track structure 60 extending transversely from said lower window track strip and defining an upward facing window slide track receptacle (not numbered, but shown in figure 13), an uppermost extent of said lower guide track structure being disposed at an elevation lower than said resilient member, said lower guide track structure being disposed laterally with respect to said resilient member since the wall 62 is disposed laterally with respect to the resilient member 15; and a first window panel 44 being located and slideably supported within said downward facing window slide track receptacle and within said upward facing window slide track receptacle, a first divider wall comprising the middle wall member 15 as shown in figure 13 disposed within said downward facing window slide track receptacle defining first and second slots (not numbered, but shown in figure 13); a second divider wall comprising the middle wall member 15 disposed within said upward facing window slide track receptacle defining first and second slots (not numbered, but shown in figure 13), said first window panel 44 disposed within said first slot of said downward facing window slide track receptacle and within said first slot of said upward facing window slide track receptacle, and a second window panel 38 disposed within said second slot of said downward facing window slide track receptacle and within said second slot of said upward facing window slide track

receptacle, said first window panel being maintained from contact with said second window panel by said first divider wall 15 and said second divider wall 15.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morinaga et al. as applied to claims 23, 25-27, 29 and 30 above, and further in view of Melcher. Melcher discloses slide track receptacles 16 of guide track structures 50. As shown in figures 16 and 17, the upper slide track receptacle 16 has a depth greater than the lower guide track receptacle.

It would have been obvious to one of ordinary skill in the art to provide Morinaga et al. with a window replacement system, as taught by Melcher, to increase the ease with which the windows can be replaced.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morinaga et al. as applied to claims 23, 25-27, 29 and 30 above, and further in view of Ehret et al. Ehret et al. discloses the use of serrations (not numbered, but shown in figure 3 between the flange 20 and the gasket 28).

It would have been obvious to one of ordinary skill in the art to provide Morinaga et al. with a connection system, as taught by Ehret et al., to more securely attach the window track assembly to the structural panels.

Response to Arguments

Applicant's arguments filed December 27, 2005 have been fully considered but they are moot in view of the new grounds of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. The applicant has presented new claims 23-32 which necessitate the new grounds of rejection. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 571-272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gregory J. Strimbu
Primary Examiner
Art Unit 3634
February 28, 2006